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| 09/973,036  | 10/10/2001  | Takayoshi Nakazato   | P21334.P06                     | 5056              |
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| GREENBLUM & BERNSTEIN, P.L.C.<br>1950 ROLAND CLARKE PLACE<br>RESTON, VA 20191 |             |                      | EXAMINER<br>MARKS, CHRISTINA M |                   |
|   |             |                      | ART UNIT<br>3713               | PAPER NUMBER<br>9 |
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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/973,036

Applicant(s)

NAKAZATO, TAKAYOSHI

Examiner

C. Marks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Specification***

The objection to the specification has been herby withdrawn due to the cancellation of the cross reference in the amendment filed 7 August 2003.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 7 is directed towards computer program that is related to display type software processing. Such claimed computer programs do not define any structural and functional interrelationships between the program and other claimed aspects of the invention that permit the programs functionality to be realized. To be statutory, the program must be embodied in a tangible medium to define the functional interrelationship between the program and the rest of the computer.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 7-13 and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Ando et al. (US Patent No. 6,200,138).

Ando et al. disclose a game apparatus that can execute a game program (Column 3, lines 5-6) wherein the game program is responsible for a executing a game that includes a display controller that displays in at least part of the game screen a characters position within a game field as well as a predetermined area around the character (FIG 7A). The entire screen of both the character and the all of the area defines the game field. The predetermined area around the player's character is separately displayed in that the game area is controlled and displayed separately from the character (FIG 5, Column 8, lines 5-34). A function for drawing the character is disclosed (Column 8, lines 25-28) and the means for drawing the area is disclosed to occur separately of drawing the character (Column 8, lines 28-35). For example, the motorbike is separately drawn and can be moved on its own. Based upon the moving of the motorbike, the area itself is also moved changing the projected images of the area (Column 8, lines 30-35) separate from the drawing of the character. Both images include their own separate analysis for drawing and are thus separately displayed. The program and system are able to recognize the target destination position of the player's character (Column 1, lines 10-11) that is fixed (Column 1, line 18) in the game filed. Inherently, a recognition-type system is used to recognize the target position as well as the player's. The program and system also recognizes the current position of the player as a movable object (Column 4, line 4). The display includes the position of the player within the field (entire screen area) as well as the predetermined area around the character (area immediately surrounding character) (FIG 7A). The current position is recognized in order to provide an indicating means directing the player towards the destination (Column 4, lines 9-11). When the target position is not displayed on the screen in the area around the player (FIG 7A), an indicator (FIG 7A) in the form of an arrow is displayed to indicate a direction extending

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towards the target position (Column 8, lines 65-67). The indicator is displayed in the vicinity of an edge of the display screen of the display associated with the predetermined area around the player's character (FIG 7A, arrows near the end portion of the top edge of the screen) and point in the target position direction (Column 8, line 57-58). The arrows are a result of recognition of the player entering an area that is near a direction indicating position (Column 8, lines 57-59). Ando et al. also disclose that the indicator can periodically change brightness, as it is capable of flashing (Column 9, lines 19-22).

Further, Ando et al. disclose a storage medium (Column 16, line 43) for storing the program used to execute the process disclosed. Though the exact type of medium is not disclosed, it would be inherent to the system that the medium be a computer readable recording medium in order for the device to be able to read the contents of the program to be able to execute the process.

Regarding new claims 13 and 15-16, the display, program and medium all include the ability to cause the display to define a magnification of the predetermined area around the players character based on character position (In FIG 9A, the predetermined area around character is only the road area which is magnified, the people are in the game field but not the predetermined area. In FIG 9B, the people have become the predetermined area, thus the people and the buildings are magnified based on the change in the character's position).

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando et al. (US Patent No. 6,200,138).

What Ando et al. disclose has been discussed above and is thereby incorporated herein.

Ando et al. do not explicitly disclose a game control method in association with the game apparatus executing a program. However, it is notoriously well known in the art that a game program is essentially a series of steps and therefore a method, which is also a series of steps, would be obvious to one of ordinary skill in the art based upon a disclosure of a program.

### ***Response to Arguments***

Applicant's arguments filed 07 August 2003 have been fully considered but they are not persuasive.

Regarding Applicant's request that the Examiner acknowledge claim for foreign priority, the Examiner has acknowledge such claim. However, there is no parent application associated with Applicant's, thus the Examiner does not understand the reference to such copies.

Regarding Applicant's argument that claims 7-9 are statutory because they are directed to a game program that is executable on a game apparatus that includes a display control array that will display a game field on a predetermined are on the apparatus and are thus a post computer process activity, the Examiner respectfully disagrees. The language that is being argued to be the post computer process is not commensurate in scope with that which is being claimed. Further, the Applicant is relying on the fact that such a function is a post computer process and is thus a safe harbor. The Examiner asserts that the MPEP defines a safe harbor process as: "physical acts to be performed outside of the computer independent of and following the steps to

be performed by a programmed computer, where the acts involve the manipulate of tangible physical objects and result in the object having a different physical attribute or structure.” There is no such functionality achieved by the display, and such the display is not a post computer process by which a safe harbor may be claimed.

Regarding Applicant’s claim that Ando et al. do not disclose “separately” displaying both the 1) game field and the 2) predetermined area around the character, the argument is not commensurate in scope with that which is being claimed. The claim states that the 1) player’s character and a 2) predetermined area are separately displayed. Thus, the limitations that are being argued are not the same that are actually present in the claim. Further, the limitation of “separately displays” has been discussed above in the grounds of rejection.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “separately displays” in claims 1-16 is used by the claim to mean “a sub-window or a radar screen”, while the accepted meaning is “being displayed on the display as separate elements and functions, not as an entire entity” and is thus the meaning used by the Examiner in the rejection of the claims.

Regarding Applicant’s argument that the applied references fail to disclose each and every element recited in independent claims, the claims are not anticipated. The Examiner

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respectfully submits that such an argument is conclusionary, as no such elements are actually pointed out and only a broad statement has been made.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**US Patent No. 6,409,596:** Hayashida et al. suggest to one of ordinary skill in the art that which Applicant presents in FIG 7 as the radar screen separately displayed.


**US Patent No. 6,398,647:** Radar screen is disclosed in the bottom of the picture that indicated position on the entire area as well as suggests direction of movement to one of ordinary skill in the art.


**US Patent No. 6,431,982:** Radar screen used to represent the entire field and the position of the characters on the entire field as opposed to a separately disclosed area around the player that is magnified in greater detail.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Thursday (7:30AM - 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa J Walberg can be reached on (703)-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

  
cmm  
October 1, 2003

  
Teresa Walberg  
Supervisory Patent Examiner  
Oct 1 2003